



William S. Helfand
24 Greenway Plaza, Suite 1400
Houston, Texas 77046
Bill.Helfand@lewisbrisbois.com
Direct: 832.460.4614

April 7, 2023

Hon. Andrew M. Edison, U.S. Magistrate Judge
United States Courthouse
601 Rosenberg, Seventh Floor
Galveston, TX 77550

Re: Civil Action No. 3:22-cv-7; *T&W Holding Company, LLC, et al v. City of Kemah, Texas.*

Your Honor:

This letter responds to the Court's order dated April 5, 2023, which addresses the "unquestionably...impermissible ex parte communications" of the former mayor of Defendant, City of Kemah, Theresa L. Gale. [Doc. 56]. The City wholeheartedly agrees with the Court's tentative decision not to review Ms. Gale's submissions and that "[t]he submissions will not be considered as part of the Motion to Dismiss record." [*Id.*].

In May 2021, Ms. Gale lost a heated election to Kemah's present mayor Carl Joiner. Plaintiffs' common owner supported Ms. Gale's re-election efforts.

The documents Ms. Gale emailed the Court's coordinator almost entirely constitute the City's January 4, 2023 official meeting agenda and city council packet have absolutely no bearing on any issue in this lawsuit, which Plaintiffs filed a year prior. Although it is disappointing to read that a city council member may have revealed privileged communications to Ms. Gale, that also has no bearing on this suit or any issue before the Court.

Apparently, Ms. Gale's animus towards Mayor Joiner relates to Ms. Gale having lost the election nearly two years ago as well as the fact Ms. Gale's actions in March, April, and May 2021 were efforts to derogate from the Kemah Code of Ordinances in favor of Mr. Placek, but clearly outside her limited authority as mayor.

The Court's conclusion to disregard Ms. Gale's submissions is indisputably correct. If the Court, however, decides to reverse course, the City respectfully requests the opportunity to brief the irrelevance of Ms. Gale's submissions to the proper disposition of Defendant's motion to dismiss Plaintiffs' second amended complaint presently before the Court.

Defendant respectfully requests the Court adhere to its tentative April 5, 2023 decision and completely disregard Ms. Gale's inappropriate and irrelevant submissions.

Respectfully,

/s/ William S. Helfand

William S. Helfand

Attorney-In-Charge

Texas Bar No. 09388250

Federal ID No. 8791

Justin C. Pfeiffer

Texas Bar No. 24091473

Federal ID No. 2533035

Bill.Helfand@lewisbrisbois.com

Justin.Pfeiffer@lewisbrisbois.com

OF COUNSEL:

LEWIS BRISBOIS BISGAARD & SMITH, LLP

24 Greenway Plaza, Suite 1400

Houston, Texas 77046

(713) 659-6767

(713) 759-6830 (Fax)

Attorneys for Defendant

City of Kemah, Texas

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2023, I served the foregoing document to all counsel of record through the Court's ECF/CM system.

/s/ William S. Helfand

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